IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.11.2006

CORM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
and
THE HON'BLE MR. JUSTICE S. TAMILVANAN

Writ Appeal No.1847 of 2001

D. Arokianathan .. Appellant/Petitioner

Vs.

The Regional Director
Indian Airlines Ltd.
Chennai 27. .. Respondent/Respondent

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.02.2000 passed by His Lordship the Hon'ble Mr. Justice E. Padmanabhan in Writ Petition No.8302 of 1998.

W.P.No 8302/1998:
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Petition presented o this Court under Article 226 of the Consititution of India to issue a Writ of Mandamus direcing the respondent to appoint the petitioner to the post of helper commercial, Tamilnadu in pursuant of the interview Roll No TN.HC.C. 2523 dated 18/11/1997.

For appellant : Mr. B. Vasudevan for Mr. V. Prakash

For respondent : Mr. K. Srinivasamoorthy

JUDGMENT

(Judgement of the Court was delivered by P.SATHASIVAM,J.)

The above writ appeal is filed against the order of the learned single Judge dated 16.02.2000 made in W.P.No.8302 of 1998, in and by which the learned Judge rejected the claim of the petitioner and dismissed his writ petition.

2. Heard the learned counsel for the appellant as well as respondent.

3. According to the appellant/writ petitioner, he is a physically handicapped person and he applied for the post of Helper Commercial (Tamil Nadu) on 24.06.1997 under the quota of Physically Handicapped. He was called for an interview against the quota of physically handicapped on 18.11.1997. One of the panel members asked him to lift a big suitcase and he satisfied the said direction without

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any difficulty. Though he was found fit and fully qualified for the post of Helper Commercial, the post is kept vacant without appointing him till date against physically handicapped quota. He also secured a letter dated 19.11.1997 from the Superintendent of Vocational Rehabilitation Centre for the physically handicapped quota. Since the respondent is not considering his request, the petitioner has filed the present writ petition.

4. By order dated 16.02.2000, the learned single Judge, after finding that no post has been reserved for physically disabled, nor any application has been called for from such physically disabled persons, rejected the claim of the petitioner; hence the present writ appeal.

5. The learned counsel appearing for the respondent pointed out that though the respondent - Indian Airlines employed disabled persons, in the present post, viz., Helper Commercial (Tamil Nadu), there is no reservation for physically handicapped. He further elaborated that since the Central Government, on getting opinion from the Committee concerned, did not identify the post of Helper Commercial (Tamil Nadu) to be reserved for handicapped, the petitioner was not considered. He also clarified that no such quota was prescribed while calling for advertisement. As against the said claim, Mr. Vasudevan, learned counsel for the appellant has contended that even as per the information furnished by the respondent - Management, in 1992 the petitioner worked for a period of 24 days as Casual worker. No doubt, as on date, the petitioner does not satisfy the minimum of 90 days of service for the purpose of consideration as prescribed by the Division Bench of this Court in W.A.No.808 of 2000 etc., batch dated 11.12.2002. However, learned counsel points out that the letter dated 20.03.2005 of the respondent/Indian Airlines addressed to the petitioner clearly shows that even in the years 2001-2002, and 2003, the petitioner was taken as casual worker for some time.

6. It is relevant to note that according to the petitioner and as per the certificate issued, he is a physically handicapped person, since in his left hand three fingers were cut. However, as rightly pointed out by the respondent- Management, as on date, there is no notification by the Government of India permitting the respondent/Indian Airlines to have handicapped persons in he category of Helper Commercial. In those circumstances, considering the case of the petitioner and of the information that he had worked for considerable days in 1992 as well as after 2000, we are of the view that it is the duty of the respondent-Management to take up the matter with the Central Government and get certain posts of Helper-Commercial reserved for physically handicapped. If any order is passed reserving certain post in the category Helper, thereafter, the claim of the appellant / writ petitioner may be considered for future vacancies if he is otherwise suitable.

With the above observation, the writ appeal is disposed of. No costs.

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Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.The Regional Director
Indian Airlines Ltd.
Chennai 27.

+ One cc to Ms. G. Ramapriya Advocate SR 55593

+ One CC to Mr. N.G.R Prasad Advocate SR 55970

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